

United States Court of Federal Claims

SPACE EXPLORATION
TECHNOLOGIES, CORP.,

Plaintiff,

v.

THE UNITED STATES,

Defendant,

and

UNITED LAUNCH SERVICES, LLC.

Defendant-Intervenor.

)
) No. 14-354-C
)
) Judge: Braden
)
)
)
)
)

APPLICATION FOR ACCESS TO INFORMATION UNDER
PROTECTIVE ORDER BY EXPERT CONSULTANT

1. I, the undersigned, am a Consultant with Berkeley Research Group and hereby apply for access to protected information covered by the Protective Order issued in connection with this proceeding.

2. I have been retained by Richard J. Vacura, Morrison Forester LLP and will, under the direction and control of that attorney, assist in the representation of Space Exploration Technologies, Inc. in this proceeding.

3. I hereby certify that I am not involved in competitive decision making as discussed in *U.S. Steel Corp. v. United States*, 730 F.2d 1465 (Fed. Cir. 1984), for or on behalf of any party to this proceeding or any other firm that might gain a competitive advantage from access to the information disclosed under the protective order. Neither I nor my employer provides advice or participates in any decisions of such parties in matters involving similar or corresponding information about a competitor. This means, for example, that neither I nor my employer provides advice concerning, or participates in decisions about, marketing or advertising strategies, product research and development, product design or competitive structuring and composition of bids, offers, or proposals with respect to which the use of protected information could provide a competitive advantage.

4. My professional relationship with the party for whom I am retained in this proceeding and its personnel is strictly as a consultant on issues relevant to the proceeding. Neither I nor any member of my immediate family holds office or a management position in any company that is a party in this proceeding or in any competitor or potential competitor of a party.

5. I have attached the following information:

- a. a current resume describing my education and employment experience to date;

See Attachment A

- b. a list of all clients for whom I have performed work within the two years prior to the date of this application and a brief description of the work performed;

See Attachment B

- c. a statement of the services I am expected to perform in connection with this proceeding;

See Attachment C

- d. a description of the financial interests that I, my spouse, and/or my family has in any entity that is an interested party in this proceeding or whose protected information will be reviewed; if none, I have so stated;

See Attachment D

- e. a list identifying by name of forum, case number, date, and circumstances all instances in which I have been granted admission or been denied admission to a protective order, had a protective order admission revoked, or have been found to have violated a protective order issued by an administrative or judicial tribunal; if none, I have so stated; and

See Attachment E

- f. a list of the professional associations to which I belong, including my identification numbers.

See Attachment F

6. I have read a copy of the Protective Order issued by the court in this proceeding. I will comply in all respects with all terms and conditions of that order in handling any protected information produced in connection with the proceeding. I will not disclose any protected information to any individual who has not been admitted under the Protective Order by the court.

7. For a period of five years after the date this application is granted, I will not engage or assist in the preparation of a proposal to be submitted to any agency of the United States government for Space Launch Vehicle Services when I know or have reason to know that any party to this proceeding, or any successor entity, will be a

competitor, subcontractor, or teaming member.

8. For a period of five years after the date this application is granted, I will not engage or assist in the preparation of a proposal or submission for Space Launch Vehicle Services nor will I have any personal involvement in any such activity.

9. I acknowledge that a violation of the terms of the Protective Order may result in the imposition of such sanctions as may be deemed appropriate by the court and in possible civil and criminal liability.

* * *

By my signature, I certify that, to the best of my knowledge, the representations set forth above (including attached statements) are true and correct.



Signature

May 14, 2014

Date Executed

Sajeev, Malaveetil, Director

Typed Name and Title

202-480-2724 202-419-1844

Telephone & Facsimile Numbers

smalaveetil@brg-expert.com

E-mail Address



Signature of Attorney of Record

May 23, 2014

Date Executed

Richard J. Vacura, Attorney

Typed Name and Title

(703) 760-7764 & (703) 760-7777

Telephone & Facsimile Numbers

rvacura@mofo.com

F-mail Address

Attachment A

SAJEEV D. MALAVEETIL
CURRICULUM VITAE

POSITION**Director, of the Government Contracts Practice at the Berkeley Research Group, LLC.**

Mr. Malaveetil is an expert in the field of government contract accounting, administration, and compliance. He has over 19 years of experience providing business consulting, financial advisory and litigation support services in field of government contracting to companies and organizations of all sizes.

Mr. Malaveetil has in-depth experience with the Federal Acquisition Regulation ("FAR"), Executive Agency supplements to the FAR, Cost Accounting Standards ("CAS"), Office of Management and Budget ("OMB") Circulars and other federal government procurement regulations and guidance.

EXPERIENCE

Mr. Malaveetil has investigated matters related to alleged violations of the False Claims Act and Anti-Kickback Act and other procurement statutes and has performed independent assessments and calculation of damages related to these matters.

Mr. Malaveetil has provided advisory services to recipients of federal awards in a variety of industries including, but not limited to: aerospace and defense, architecture and design, bio-technology, construction, engineering, environmental, healthcare, information technology, manufacturing, not-for-profit, professional services, pharmaceutical, security, and telecommunications.

Mr. Malaveetil has extensive experience in matters related Federal Supply Schedule ("FSS") contracts. He has assisted GSA and VA Schedule contract holders with various contract administration and pricing matters including – the analysis and disclosure of commercial sales practices, developing pricing strategies for Schedule contract pricing as well as monitoring and reporting price reductions. Mr. Malaveetil has assisted and advised various contractors and their legal counsel during Defense Contract Audit Agency and Office Inspector General audits and Department of Justice investigations related to GSA and VA Schedule matters.

Mr. Malaveetil has experience in performing due-diligence for and of government contractors and supporting post-acquisition integration efforts. He has assisted companies as an expert in strategic design and implementation of accounting and organizational changes resulting from mergers and acquisitions.

Mr. Malaveetil specializes in assisting organizations in implementing business and process improvements to comply with the myriad of regulatory requirements associated with pricing, administering and accounting in accordance with government award requirements. This includes assisting traditional government contractors with employing and implementing commercial practices in government acquisitions as well as advising traditional commercial companies on various accounting and compliance matters related to government contracts and grants.

Mr. Malaveetil's experience and expertise spans the entire lifecycle of government contracting including:

- Evaluation of Cost Proposals and Assisting with Pricing Strategies
- Serving as Cost or Price Expert on Bid Protests
- Assessing Cost Realism and Reasonableness
- Contract and Subcontract Administration and Compliance
- Indirect Rate Design and Restructuring

Attachment A

- Cost Accounting and Incurred Cost Submissions
- Assessing CAS and Implementing CAS Compliant Practices
- Preparation of CAS Board Disclosure Statement
- Preparation and Negotiation of CAS Cost Impacts
- Assessing Contractor Business Systems
- Implementation of Compliant Contractor Business Systems Processes and Controls
- Commercial Item Acquisitions
- Federal Supply Schedule compliance (Price Reductions, Commercial Sales Practices)
- Mergers & Acquisitions and Post-Acquisition Integration
- Performing Internal Audits and Investigations
- Supporting Contractors in Government Audits and Investigations
- Negotiation of Contracts and Contract Audit Findings
- Providing Litigation Support

EXPERT TESTIMONY AND BID PROTEST EXPERIENCE

Mr. Malaveetil is experienced in a variety of litigation matters. He has supported contractors and their counsel in directing forensic accounting analysis and preparing expert reports in matters related to alleged fraud, statutory violations, voluntary disclosures, compliance with Federal Supply Schedule Price Reductions and Commercial Sales Practices disclosures requirements, contractor claims, arbitrations, and government investigations.

In addition, Mr. Malaveetil has experience in bid protest matters related to price/cost reasonableness and realism. Mr. Malaveetil has been admitted under protective orders before the Government Accountability Office for bid protest matters. His bid protest experience includes the following:

Bid Protest B-400660.4, Intermarkets Global

Bid Protest B-400660.5, KGL Food Service

Bid Protest B-405047, Tauri Group, LLC

Bid Protest B-407230, Global Bos Solutions, LLC

EDUCATION AND PROFESSIONAL CERTIFICATIONS

Bachelor of Science, Accounting, George Mason University

Certified Public Accountant, Commonwealth of Virginia

BUSINESS AND NOT-FOR-PROFIT AFFILIATIONS

American Institute of Certified Public Accountants

American Bar Association, Public Contract Law Section, Non-Attorney

Institute of Management Accountants

National Contract Management Association

National Defense Industry Association

Professional Services Council

Attachment A

Tie-DC

Virginia Society of Certified Public Accountants

Attachment B

ATTACHMENT B - CLIENT LIST FOR PREVIOUS 2 YEARS

Client Name	Scope of Work
ACDI/VOCA	GSA Schedule Consultation
Booz Allen Hamilton	Incurred Cost Submission Preparation
CH2M Hill	FAR/CAS Consulting
Cross Boundary	Cost Accounting consulting
Deloitte and Touche	GSA Schedule Consulting Services
GardaWorld	Accounting System and Cost Accounting compliance
Gus Stefanou, CPA	Incurred Cost Submission Assistance
Ifrah, PLLC	Subcontractor claim
International Relief & Development	Indirect Rate/CAS Consultation
King and Spaulding – General Dynamics IT	Subcontractor invoicing analysis
Land O'Lakes	Government Contract Accounting Assessment
Morrison & Foerster, LLP – Sourcefire	GSA Schedule Analysis
National Security Partners	Business System Assessment
Novartis	Analysis of pharmaceutical sales
Pact, Inc.	CAS Consultation/Training
Palo Alto Research Center	General cost accounting consultation
Pivotal Software, Inc.	Analysis of Commercial Sales Practices
Population Services International	Consulting on Indirect Rates
Olive Group, NA	Accounting System Assistance
QinetiQ North America	General FAR/CAS Consultation
Salient Federal Solutions	GSA Schedule Consultation
Sanofi Pasteur	Analysis Contract Costs
Triple Canopy	Business Systems Training
United Infrastructure Projects (UIProjects) FZCO	Request for Equitable Adjustment
United States Pharmacopeial	Government Contract Accounting Assessment

Attachment C

ATTACHMENT C – SERVICES TO BE PERFORMED

I have been retained to assist outside counsel for Space Exploration Technologies, Inc. with respect to bid protest proceedings. Assistance is expected to include the following:

- Review and analysis of proposal and evaluation materials and other documents related to the contract;
- Provide advice and conclusions to outside legal counsel in connection with proposal and evaluation issues related to cost.
- We expect to review and provide counsel with analysis of the offerors' proposals and the government's evaluation of those proposals and its source selection decision.

Attachment D

ATTACHMENT D – FINANCIAL INTERESTS

A description of the financial interests that I, my spouse, and/or my family has in any entity that is an interested party in this proceeding or whose protected information will be reviewed; if none, I have so stated

NONE

Attachment E

ATTACHMENT E - PROTECTIVE ORDER LIST

- Bid Protest B-400660.4, Intermarkets Global
- Bid Protest B-400660.5, KGL Food Service
- Bid Protest B-405047, Tauri Group, LLC
- Bid Protest B-407230, Global Bos Solutions, LLC

No protective order admissions denied, revoked, or violated.

Attachment F

ATTACHMENT F – PROFESSIONAL ASSOCIATIONS

American Institute of Certified Public Accountants	01660935
American Bar Association, Public Contract Law Section, Non-Attorney	00864951
Institute of Management Accountants	7056183
National Contract Management Association	466496
National Defense Industry Association	
Professional Services Council	
Tie-DC	
Virginia Society of Certified Public Accountants	